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Date of Decision: 19th September 1995

SPECIAL CIVIL APPLICATION NO. 805 OF 1984

FOR APPROVAL AND SIGNATURE

THE HONOURABLE MR. JUSTICE A.N. DIVECHA

1. Whether Reporters of Local Papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of judgment? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

Shri R.N. Shah, Advocate, for the Petitioner

Shri S.P. Dave, Asst. Govt. Pleader, for the Respondent

CORAM: A.N. DIVECHA, J.
(Date: 19th September 1995)

ORAL JUDGMENT

The order of interim direction issued on 11th January 1984 under sec. 34 of the Urban Land (Ceiling and Regulation) Act, 1976 ('the Act' for brief) as also the show-cause notice issued on 24th January 1984 calling upon the concerned land-owners to show cause why the permission granted by the Competent Authority at Ahmedabad on 6th August 1982 or

thereabout are under challenge in this petition under Art. 226 of the Constitution of India.

2. It is not necessary to set out in detail the facts giving rise to this petition. It appears that the petitioner purchased a parcel of land bearing Survey No. 307/2 (part) from various persons and after obtaining the necessary permission from the Competent Authority at Ahmedabad by his order passed on 11th November 1982 under sec. 26(2) of the Act ('the disputed land' for convenience). Copies of such orders are at Annexure A collectively to this petition. It appears that this permission was granted by the Competent Authority pursuant to the order passed by him under sec. 8(4) thereof while processing the declarations filed by the concerned land-owners in the prescribed form under section 6(1) thereof. It appears that the orders under sec. 8(4) of the Act came to the notice of the concerned officer of the Government and he appears to have found them not according to law. Their suo motu revision under sec. 34 of the Act was therefore contemplated. Thereupon an interim direction came to be issued on 11th January 1984 under sec. 34 of the Act directing the land-owners not to change the status-quo of the lands in their hands including the disputed land. Its copy is at Annexure B (part) to this petition. Thereafter a show-cause notice thereunder came to be issued on 24th January 1984 calling upon them to show cause why the order passed by the Competent Authority on 6th August 1982 presumably under sec. 8(4) of the Act should not be revised. A copy of the aforesaid show-cause notice is also at Annexure B (part) to this petition. It appears that the interim direction issued on 11th January 1984 aggrieved the petitioner and it therefore moved this court by means of this petition under Art. 226 of the Constitution of India for questioning its legality and validity.

3. It clearly transpires from the order of interim direction and the show-cause notice at Annexure B collectively to this petition that the orders at Annexure A collectively to this petition are not under revision by or on behalf of the State Government. In that view of the matter, the purchase of the disputed land by the petitioner is not in jeopardy. The petitioner need not worry on that score. It is obvious that no action can be taken against the petitioner with respect to the disputed land except according to law and without giving an opportunity of hearing to it. So far as the show-cause notice issued to the land-owners is concerned, the petitioner cannot have any say in the matter.

4. In view of my aforesaid discussion and clarification, it is not necessary to interfere with the order and the show-cause notice at Annexure B collectively to this petition more particularly when, by the interim order of this court, the

petitioner has been permitted to construct a society which has already been constructed and houses have come to be allotted to its members as stated by Shri Shah for the petitioner before me.

5. In the result, this petition fails. It is therefore rejected. Rule is accordingly discharged with no order as to costs.
